

NO PROTEST RECEIVED
Release copies to District

Date [REDACTED]

Surname [REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Employer Identification Number [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(6). Pursuant to your authorized representative's letter dated [REDACTED], wherein he requested that a modification of your application be considered, we are no longer considering your application under section 501(c)(4). We have determined that you do not qualify for exemption under section 501(c)(6). Our reasons for this conclusion, and the facts upon which it is based, are explained below.

The information submitted indicates that you were incorporated on [REDACTED] as a nonprofit corporation under the laws of the State of [REDACTED]. Your Articles of Incorporation provide that your purpose is to provide a cooperative through which participating non-profit organizations, including organizations tax-exempt under section 501(c)(9) of the Code, trust funds, and government employers, may collectively bargain for and obtain health care benefits for their beneficiaries, employees and participants; and to provide technical assistance to your participating organizations in the payment of claims, monitoring of health care quality, and record keeping.

Your bylaws provide that you will serve your participating plan organizations or plan members by negotiating, maintaining, and renewing agreements with a variety of health care providers that results in cost-effective health care for the enrolled plan employees and their dependents, and in your provider relations and plan service/communications role, you will facilitate communication and informational exchanges critical to benefit plan services between participating providers, participating plan organizations, and your plan member's benefit plan administrator.

[REDACTED]

Your bylaws provide that you may have three types of members:

(1) [REDACTED] - all current members (as of [REDACTED] that participate in your network and all new members that enroll [REDACTED] or more initial employees for membership in your organization. Each [REDACTED] may appoint [REDACTED] directors to your Board of Directors.

(2) [REDACTED] - organizations that elect to be recognized as participants in your cooperative purchasing alliance but do not avail themselves of all services extended to [REDACTED]. The specific service not extended to [REDACTED] includes access to your provider agreements for the purpose of repricing self-funded health care expense. Each [REDACTED] may appoint [REDACTED], non-voting director to your Board of Directors.

(3) [REDACTED] - organizations that initially enroll fewer than [REDACTED] in your organization. Each Participating [REDACTED] may appoint [REDACTED] to your Board of Directors.

Your bylaws also provide that new plan members who meet the criteria established by the existing members shall be permitted to join as members upon the written consent of a majority of your directors; such consent will not be unreasonably withheld.

The financial information submitted with your application indicates that your income consists solely of two types of membership fees: startup fees and monthly access fees, based on access to hospital and ancillary contracts. Your bylaws provide that Full Organizational Members and Participating Organizational Members are required to pay a startup fee as established by the Board of Directors, currently \$[REDACTED] per employee. [REDACTED] are required to pay a reduced amount as a startup fee. Full Organizational Members and Participating Organizational Members are required to pay a per employee monthly network access fees as established by the Board of Directors, currently \$[REDACTED] per employee per month. [REDACTED] are [REDACTED] to pay any monthly Access Fee.

[REDACTED]

In your application, you state that you are an association of employers whose objective is to negotiate contracts with medical care providers to provide care at negotiated fees. You state that each of your members is an employer providing health insurance to their employees. You also state that your members' goal is to use their combined buying power to negotiate with health care providers to provide health care coverage for their employees at a lower cost than would be available in the market on a single employer basis.

As of your letter dated [REDACTED], you state that your membership consisted of the [REDACTED]. [REDACTED]. You also state that the activities you conduct besides negotiating contracts with health care providers are marketing your preferred provider program to prospective plan members, provider relations, plan member relations, distribution of plan member claim forms, communication and meeting preparation for your board of directors, and contracting, recontracting, and meeting with prospective providers.

Section 501(c) (6) of the Code provides for the exemption from federal income tax of business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c) (6) -1 of the Income Tax Regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for a profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.

Rev. Rul. 56-65, 1956-1 C.B. 199, holds that a local organization whose principal activity consists of furnishing particular information and specialized individual services to its

individual members engaged in a particular industry, through publications and other means to effect economies in the operation of their individual businesses, is performing particular services for individual persons. Such organization, therefore, is not entitled to exemption under section 501(c)(6) of the Code as a business league even though it performs functions which are of benefit to the particular industry and the public generally. The activities of the organization consist of the maintenance of plan rooms for the convenience of members, where plans and specifications for local construction projects, together with the names of general contractors bidding on specific projects, are filed.

Rev. Rul. 65-164, 1965-1 C.B. 238, holds that negotiating written collective bargaining labor contracts for the general membership, interpreting such contracts, and mediating or settling jurisdictional and other disputes are to be considered incidental activities under section 501(c)(6) of the Code since these activities further the common purpose with respect to the common labor problems of the business group and do not represent services to individual members which the members could purchase elsewhere. The revenue ruling also states that where such services do not further the common interests and individual members derive a direct and non-incidental benefit from the services rendered, the organization would not qualify for exemption under section 501(c)(6).

Rev. Rul. 66-151, 1966-1 C.B. 152, holds that the management of health and welfare plans for a fee by a business league exempt under section 501(c)(6) of the Code is unrelated trade or business within the meaning of section 513. In the revenue ruling, the organization's purpose and principal activity is to represent its member firms in all matters pertaining to their relations with labor and labor unions. The organization also regularly manages health and welfare plans for its members, receiving a fixed fee for each employee covered by a plan. Significant amounts of its income and expenses are attributable to the management of these plans.

Rev. Rul. 68-264, 1968-1 C.B. 264, holds that primary activities that constitute a regular business of a kind ordinarily carried on for profit will preclude exemption from federal income tax under section 501(c)(6) of the Code. In this case, the organization was providing services to members and nonmembers.

Rev. Rul. 74-81, 1974-1 C.B. 135, holds that a nonprofit organization formed to promote the business welfare and interests of persons engaged in the contracting trade and related industries and whose principal activity is to provide its members with group workmen's compensation insurance is not entitled to exemption under section 501(c)(6) of the Code. The revenue ruling states that by providing group workmen's compensation insurance for its members, the organization relieves the members of obtaining this insurance on an individual basis, resulting in a convenience in the conduct of their businesses. Therefore, the organization is rendering particular services for individual persons as distinguished from the improvement of business conditions in the contracting and related industries generally, and does not qualify for exemption from federal income tax under section 501(c)(6) of the Code.

In Associated Master Barbers & Beauticians of America, Inc. v. Commissioner, 69 TC 53 (1977), the court sustained the revocation of the petitioner's exempt status under section 501(c)(6) of the Code because of the extensive commercial services provided to members. The court stated:

Because these activities serve as a convenience or economy to petitioner's members in the operation of their business, we think they constitute "particular services" as proscribed by the regulations. By providing insurance or textbooks for its members, the petitioner relieves its members of obtaining insurance or textbooks on an individual basis from a nonexempt commercial business. If the petitioner did not provide these goods and services, its members would have to obtain them from nonexempt businesses at a substantial increased cost. Thus, the organization is rendering "particular services" for the individual members as distinguished from an improvement of business conditions in barbering and beautician professions generally.

From the facts you have presented, it is clear that you were formed for, and your primary activity consists of, negotiating with health care providers for discounted health care services for your employer members. Also, almost all of your activities that are not directly concerned with the active negotiations for the health care services revolve around and are connected with or dependent upon this central activity. We have determined that your negotiating activity is the performance of particular

services for your individual members, and, as such, is proscribed from being a primary activity for purposes of exemption under section 501(c)(6) of the Code pursuant to section 1.501(c)(6)-1 of the regulations. The argument described in Rev. Rul. 56-65, supra, is also applicable to you because your performance of particular services is your primary activity.

Your negotiating activity is not similar to the exempt negotiation activity carried on by the organization described in Rev. Rul. 65-164, supra, because your negotiations represent services to individual members which the members may purchase elsewhere. Also, your members receive a direct and non-incident benefit from your services. Similar to the organization described in Rev. Rul. 74-81, supra, your primary activity relieves your members of negotiating and obtaining this health insurance on an individual basis, resulting in a convenience in the conduct of their businesses. The fact that the health services may be more expensive if sought by your members individually rather than collectively is immaterial for purposes of exemption as noted in Associated Master Barbers & Beauticians of America, Inc., supra.

For these reasons, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(6) of the Code. You are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your protest statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to your key District Director.

[REDACTED]

When sending additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following address on the envelope:

[REDACTED] W.

Sincerely yours,

[REDACTED]

cc: [REDACTED]

[REDACTED]